

REMARKS

Claims 34-38 and 40-43 are pending in the application. Claims 34 and 40 have been amended. Claims 34-38 and 40-43 therefore are pending for reexamination and reconsideration, which are respectfully requested in view of the foregoing amendments and following remarks.

In the June 2, 2006 office action, claims 34-38 and 40-43 were rejected under 35 U.S.C. 102(b) as anticipated by Krebber as evidenced by Weiner. The specific grounds for rejection, and applicants response thereto, are set forth in detail below.

Support for amendments

The amendments to claim 34 and 40 are supported by the original claims and throughout the specification. See, for example, page 4, at 6 lines from the bottom the page.

Rejections under 35 USC § 102(b)

Claims 34-38 and 40-43 are rejected under 35 U.S.C. 102(b) as anticipated by Krebber as evidenced by Weiner. Specifically, the Examiner alleges that Krebber shows expression of a nucleic acid molecule comprising the first N-terminal domain of the gene III protein of filamentous phage and a polypeptide which is encoded by a nucleic acid sequence comprised in a genomic fragment. Weiner is cited as teaching the nucleic acid sequence described by Klebber is a genomic fragment. Applicants respectfully traverse the rejection.

It is axiomatic that, for a prior art reference to be anticipatory, every element of the claimed invention must be identically shown in a single reference. *In re Bond*, 15 USPQ2d 1566 (Fed. Cir. 1990). Independent claims 34 and 40 both recite that the genomic fragment or EST is between 100 and 2000 bases long. In contrast, Klebber shows only a peptide purification tag having the sequence SGCPHHHHHH and does not show a nucleic acid that encodes a genomic fragment or EST that is between 100 and 2000 bases long. Accordingly, since Klebber does not teach each and every element of the instant claims, the rejections are improper and should be withdrawn.

CONCLUSION

In view of the foregoing amendments and remarks, applicants respectfully submit that the claims are in order for allowance.

In the event that there may be any issues outstanding after consideration of this response, the Examiner is invited to contact the undersigned to expedite prosecution of the application.

The Commissioner is hereby authorized by this paper to charge any fees during the entire pendency of this application including fees due under 37 C.F.R. §§ 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account 50-3081. **This paragraph is intended to be a CONSTRUCTIVE PETITION FOR EXTENSION OF TIME in accordance with 37 C.F.R. § 1.136(a)(3).**

Respectfully submitted,



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